

(Prepared by the Department of Legislative Services of the Maryland General Assembly in accordance with Section 7-105 of the Election Law Article of the Annotated Code of Maryland)

**CHAPTER 617 of 2005
(Senate Bill 102)**

QUESTION 1

Constitutional Amendment

Board of Public Works - Disposition of Public Park Lands - General Assembly Approval Required

Summary

Amends Section 3 of Article XII - Public Works of the Maryland Constitution to prohibit the Board of Public Works from approving the sale, transfer, exchange, grant, or other permanent disposition of any State-owned outdoor recreation, open space, conservation, preservation, forest, or park land without the express approval of the General Assembly, or of a committee that the General Assembly designates by statute, resolution, or rule.

Current law provides for an extensive process with respect to the disposition of excess State-owned outdoor recreation, open space, conservation, preservation, park, or forest lands. This process includes the determination of excess State-owned property, the declaration of such property as excess, as well as notification to specified entities. For certain property, the process may also include public hearings and final approval of the disposition by the General Assembly.

This constitutional amendment proposes an amendment to Section 3 of Article XII to expressly prohibit the Board of Public Works from approving the disposition of specified State-owned land without the specific approval of the General Assembly or of a committee that the General Assembly designates by statute, resolution, or rule.

During the 2005 session, the General Assembly also passed companion legislation (Chapter 473) to make the changes to statutory law necessary to implement this constitutional amendment. That legislation requires notification of proposed dispositions to be made to the Senate Budget and Taxation Committee and the House Appropriations Committee of the General Assembly. In addition, for certain properties, dispositions must be approved by the Legislative Policy Committee or the full General Assembly.

**CHAPTER 421 of 2006
(House Bill 84)**

QUESTION 2

Constitutional Amendment

Right of Appeal to the Court of Special Appeals from a Decision of a Circuit Court in Banc

Summary

Amends Section 22 of Article IV - Judiciary Department of the Maryland Constitution to provide a direct appeal to the Court of Special Appeals following an in banc review of a circuit court decision to any party that did not request the in banc review; establishes that three circuit court judges constitute a court in banc; provides that the procedure for an appeal to a court in banc shall be provided in the Maryland Rules; and eliminates obsolete provisions pertaining to writs of error.

Under current law, Article IV, Section 22 of the State Constitution grants, with some exceptions, a party the right to appeal the determination of a legal question in a circuit court trial to a three-judge panel, called a court in banc. The decision of the court in banc is considered final and conclusive for the party that requested the review. However, the party that did not request the in banc review may appeal the decision of the circuit court in banc to the State's highest court, the Court of Appeals. Because the Court of Appeals hears cases by granting certiorari, this appeal is discretionary, not automatic or direct.

This constitutional amendment will allow a party that did not request an in banc review of a circuit court decision to appeal an adverse ruling of the court in banc directly to the State's intermediate appellate court, the Court of Special Appeals. This constitutional amendment also establishes that three judges of a circuit court constitute a court in banc, repeals the authority of circuit courts to determine the procedure for an appeal to a court in banc and instead establishes that the Maryland Rules shall provide the procedure for such an appeal, and eliminates obsolete provisions pertaining to writs of error.

**CHAPTER 422 of 2006
(House Bill 413)**

QUESTION 3

Constitutional Amendment

Civil Jury Trials - Amount in Controversy

Summary

Amends Article 5(a) of the Declaration of Rights to authorize the enactment of legislation to limit the right to trial by jury in civil proceedings to those proceedings in which the amount in controversy exceeds \$10,000.

Currently, Article 23 of the Declaration of Rights guarantees the right to a jury trial in a civil proceeding where the amount in controversy exceeds \$10,000. "Amount in controversy" generally means the amount of monetary damages claimed in a civil case. Current statutory law, enacted to implement this constitutional provision, authorizes a party in a civil case in which the amount in controversy exceeds \$10,000 to request a jury trial. The intent of these constitutional and statutory provisions was to limit the right to a jury trial in civil proceedings to those cases in which the amount in controversy exceeds \$10,000.

However, in a 2004 case, the Court of Appeals of Maryland (the State's highest court) ruled that Article 5(a) of the Declaration of Rights establishes a common law right to a trial by jury in all civil cases and that Article 23 does not affect this right in cases where the amount in controversy is \$10,000 or less.

This constitutional amendment proposes an amendment to Article 5(a) to expressly grant the General Assembly the authority to enact legislation that limits the right to trial by jury in civil proceedings to those proceedings in which the amount in controversy exceeds \$10,000.

During the 2006 session, the General Assembly also passed companion legislation (Chapter 575) to make the changes to statutory law necessary to implement this constitutional amendment. That legislation, which will only take effect if the constitutional amendment is ratified, prohibits a party in a civil case from requesting a jury trial if the amount in controversy does not exceed \$10,000.

**CHAPTER 61 of 2006
(House Bill 1368)**

QUESTION 4

Statutory Enactment Petitioned to Statewide Referendum

Election Law Revisions

Summary

Amends various provisions of the Election Law Article of the Annotated Code of Maryland as follows:

Early Voting

Special Note: The early voting provisions in Chapter 61 of 2006 would have specified the hours and locations of early voting polling places that would have been established to allow voters to vote during a five day early voting period prior to the primary and general elections. Additionally, the State and local election boards would have been required to take steps to inform the public about early voting and early voting polling places.

On August 25, 2006, the Court of Appeals of Maryland held that the early voting process passed by the General Assembly was not authorized under the Maryland Constitution. Accordingly, those portions of this enactment which concern the early voting process may not be implemented unless they are subsequently reenacted by the General Assembly in a manner that is deemed constitutional. Other provisions of the enactment, summarized below, may be put into effect immediately if Question 4 is approved.

E-poll Books

Requires each polling place to be equipped with "e-poll books", computer devices that are used to check in voters at polling places in order to guard against multiple voting by the same voter. The e-poll books must contain a record of all registered voters in the county and be capable of being networked to computer devices at other polling places. Funding for the e-poll books must be included in the State budget each year.

Separate Precincts for Certain Higher Education Institutions

Requires separate precincts to be established on or near the campus of each public or private higher education institution that has at least 500 students, faculty, or staff of the institution who are registered voters in the precinct in which the institution is located and if a polling place is not already located within one-half mile of the institution's campus.

Requires higher education institutions for which separate precincts are established and that receive State funds to provide a facility for use as a polling place, at no charge to the local election board, and to provide assistance to the local election board in recruiting election judges to staff the polling place.

State Board of Elections Decisions

Requires the powers and duties of the State Board of Elections to be exercised by a supermajority vote (i.e., an affirmative vote of four out of five members).

Voter Registration/Absentee Voting Assistance at Nursing Homes/Assisted Living Facilities

Requires each local election board to administer voter registration and absentee voting for nursing homes and assisted living facilities according to regulations and procedures established by the State Administrator and approved by the State Board of Elections.

Provisions of Limited Duration and Applicability

Sets out provisions, as follows, that will only be in effect through June 30, 2008 and only apply in jurisdictions in which, based on data from the 2000 Decennial Census, less than 60 of the population lives in owner-occupied dwellings and the median income is less than \$40,000 per year (applicable to Baltimore City and Somerset County only).

Allows the State Administrator of Elections (and a registered voter or an applicant for voter registration after first requesting the Administrator to do so) to file a lawsuit to stop a local election board or election director from violating State election laws, regulations, guidelines, or procedures.

Requires the State Administrator of Elections to suspend election personnel who violate State laws prohibiting election personnel from: holding or being a candidate for any elective public office, political party office, or any other office created under the Maryland Constitution or State laws; using an individual's official authority for the purpose of influencing or affecting the results of an election; or generally taking any active part in political management or a political campaign (exceptions apply to election judges when not performing their duties).

Authorizes the State Administrator of Elections to appoint a temporary replacement for suspended election personnel.

Requires certain actions to be taken and procedures to be followed by the local election directors and election boards in the applicable jurisdictions, including that:

- {lev2}Regulations be adopted by the local election board, generally relating to: the administration of voter registration, including procedures for determining whether an applicant is qualified to become a registered voter; obtaining, receiving, and processing voters' changes of address or changes in eligibility status; and removing voters from the voter registry;
- {lev2}The specified regulations be approved by the State Administrator of Elections before the local election board denies any application for registration or removes any voter from the voter registry;
- {lev2}A public notice and comment process be completed and approval of the State Administrator be obtained before alteration of precinct boundaries or polling place locations;
- {lev2}A list of any names proposed by the local election director to be removed from the voter registry be published on the Internet not later than 30 days before the close of voter registration prior to an election;
- {lev2}Names not be removed from the voter registry, other than those requested by voters themselves, during the period beginning 30 days before the close of voter registration and ending at the close of polls on election day;
- {lev2}Public reports be made

on the number and type of voter registration applications received, those accepted and rejected, and the reasons for the rejected applications; and{lev2}At least one working voting machine or device be provided at each polling place for every 200 registered voters.

Study of Election Day Voter Registration

Requires the State Administrator of Elections and the Office of the Attorney General to review the possibility of implementing election day voter registration that would allow eligible, unregistered voters to register and vote on election day, beginning with the 2008 primary election, and to report their findings and recommendations to the Governor and the General Assembly on or before December 31, 2006.